

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

ALBERT WILLIAM HOLDEN, III

PLAINTIFF

VS.

CIVIL ACTION NO. 3:04CV375LN

**CHRIS WILLIAMS, KEVIN SMITH,
LAWRENCE COUNTY, MISSISSIPPI,
SHERIFF'S DEPARTMENT and
JIMMY BATON**

DEFENDANTS

ORDER

This matter came before the court on the Motion for Additional Time or for the Entry of a New Scheduling Order filed by Defendant Lawrence County Sheriff's Department. The court entered an Order on April 18, 2005, staying this matter until the conclusion of the related criminal matter, *United States v. John Kevin Smith and James Sizemore*, Criminal No. 2:04cr29BrRo. Lawrence County states that it is "unable to determine from the existing court records whether or not the criminal proceedings have been finally concluded inasmuch as there appear to be pending motions in the related criminal action." The undersigned has reviewed the docket, and there are pending motions. Thus, the criminal action is not completed, and it would be premature to lift the stay earlier entered in this matter. Lawrence County requests a new scheduling order and a corresponding extension of all deadlines. There are no deadlines to extend, because this matter is stayed, and the court cannot set a schedule for this matter until the underlying criminal matter has been completed.

Defendant John Kevin Smith has submitted a response to this Motion, in which he has suggested that the Plaintiff may not wish to pursue this matter, given the outcome of the criminal case identified above. The court notes that the Plaintiff did not respond to this Motion, which could

indicate that he will not pursue this matter further. If that is the case, there is no reason to keep this matter on the docket of the court; therefore, the court will require the Plaintiff to notify the court as his intentions with regard to this matter.

IT IS, THEREFORE, ORDERED that the Motion for Additional Time or for the Entry of a New Scheduling Order is hereby **denied**.

IT IS FURTHER ORDERED that the Plaintiff notify the court, on or before February 14, 2006, as to whether he intends to pursue his claims in this case. Failure to so notify the court may result in a recommendation that this matter be dismissed for failure to prosecute.

IT IS SO ORDERED, this the 13th day of January, 2006.

S/Alfred G. Nicols, Jr.

UNITED STATES MAGISTRATE JUDGE